

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

Bail Appl..No. 4550 of 2007()

C.C.NO.210/2005 OF JUDICIAL MAGISTRATE OF THE FIRST CLASS,
CHITTUR

: PETITIONERS/ACCUSED:

1. ANIL KUMAR @ ANIL, S/O. RAJAN,
AGED 26 YEARS, KARIKULAM HOUSE, ATHIMANI,
VILAYODI, CHITTUR TALUK, PALAKKAD DISTRICT.
2. MANIKANDAN, S/O. KUPPAN,
AGED 32 YEARS, THAZHATHUPADAM HOUSE, VILAYODI,
CHITTUR TALUK, PALAKKAD DISTRICT.
3. RATHEESH, S/O. KRISHNAN,
AGED 26 YEARS, MANJIRAPADAM, PATTANCHERY,
CHITTUR TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 27/07/2007 ALONG WITH B.A.NOS.4553, 4554 & 4555 OF 2007,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.Nos.4550, 4553, 4554 & 4555 of 2007

Dated this the 27th day of July, 2007

ORDER

The prayer in these 4 petitions are identical. The 1st petitioner/accused is also the same. The relief which I propose to grant is also identical. It is in these circumstances that I choose to dispose of all these 4 petitions together by this common order. The petitioners in these 4 petitions are respectively accused in C.C.No.210/2005, C.C.No.57/2006, S.C.No.197/2004 and C.C.No.440/2006 - the C.Cs are pending before the Judicial Magistrate of the First Class, Chittoor and the S.C is pending before the Assistant Additional Sessions Court, Palakkad. The petitioners face allegations for bailable offences in two crimes and for offences punishable under Sections 394 and 307 I.P.C in two other crimes.

2. The petitioners had not entered appearance in the cases. Consequently, reckoning them as absconding accused, warrants of arrest have been issued by the courts concerned. The petitioners now find such warrants of arrest issued by the courts chasing them.

3. According to the petitioners, they are absolutely innocent. Their failure/omission to appear earlier was on account of reasons beyond their control. They are willing to appear before the courts concerned and apply for bail. They are willing to co-operate with the

courts concerned for the expeditious disposal of the cases against them. But they apprehend that their applications for bail may not be considered by the courts concerned on merits, in accordance with law and expeditiously. They further pray that direction under Section 438 and/or 482 Cr.P.C may be issued in their favour.

4. The learned Public Prosecutor only submits that appropriate orders may be passed.

5. After the decision in **Bharat Chaudhary v. State of Bihar** [A.I.R 2003 S.C 4662], it is well settled that powers under Section 438 Cr.P.C can be invoked even in favour of an accused who apprehends arrest in execution of a non bailable warrant issued in a pending proceedings. But even for that, sufficient and satisfactory reasons must be shown to exist to justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. I do not find any such reasons in these cases.

6. It is for the petitioners to appear before the courts concerned and explain the circumstances under which they could not earlier appear before the courts concerned. I have no reason to assume that the courts concerned would not consider such applications on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already

been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

7. This applications for anticipatory bail are, in these circumstances, dismissed, but with the specific observation that if the petitioners appear before the courts concerned and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the courts concerned must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-

